

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C 08-05415 WHA

UNITED TAXICAB WORKERS, an
unincorporated association, MARSHALL
CHILDS, an individual, DAVID
BARLOW, an individual, DAVID
SCHNEIDER, an individual,

**ORDER RE NECESSARY
PARTIES**

Plaintiffs,

v.

CITY AND COUNTY OF SAN
FRANCISCO and BOARD OF
SUPERVISORS OF THE CITY AND
COUNTY OF SAN FRANCISCO,

Defendants.

/

Plaintiffs, individual San Francisco taxicab drivers and an association of taxicab drivers, filed a complaint in this action on December 2, 2008. They previously filed a state court action in November 2006 against several taxicab companies, including Yellow Cab Cooperative, Inc., Luxor Cabs, Inc., and Speck Cab Co., Inc (dba Arrow Cab Company and Veterans Cab Company). In the state court action, plaintiffs alleged that the taxicab companies charged them excessive “gate fees.” In August 2007, the City and County of San Francisco intervened in the state court action. Plaintiffs dismissed the state court action and filed this action after the City and County of San Francisco amended San Francisco Police Code § 1135.1. Plaintiffs now allege that the amended version of Section 1135.1 retroactively ratified the excessive gate fees that the taxicab companies charged the taxicab drivers. They further allege that amended

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1 Section 1135.1 is unconstitutional. Here, the named defendants include the City and County of
2 San Francisco and the Board of Supervisors of the City and County of San Francisco. The
3 taxicab companies, however, were not named as defendants in this action.

4 On April 16, 2009, defendants filed a motion for judgment on the pleadings. A May 22
5 order denied defendant's motion, noting that the record was inconclusive on the wording and
6 effect of the contracts between the taxicab companies and taxicab drivers. In that order, the
7 parties were ordered to show cause as follows (Dkt. No. 1):

8 This leads to a further question — are the taxicab companies
9 necessary parties under Rule 19, given that resolution of this
10 dispute turns on the meaning of their contracts and given that
11 those companies have a monetary stake in the outcome of this
litigation? Within TEN CALENDAR DAYS, all parties hereto are
ORDERED TO SHOW CAUSE why this case should not be dismissed
for failure to join a necessary party under Rule 19.

12 The parties have now filed their responses.

13 Having reviewed the responses to the order to show cause, the Court now rules as
14 follows. The Court finds that the taxicab companies are necessary parties within the meaning of
15 Rule 19. The reason is that the extent to which the ordinance might be deemed constitutional
16 depends primarily on the wording and/or content of the contract between the taxicab drivers and
17 taxicab companies. All is explained in the May 22 order. As a result, the Court finds that it
18 will be necessary to adjudicate the rights of the taxicab companies vis-a-vis the taxicab drivers
19 and adjudicate the effect of the amendment on the financial obligations of the taxicab
20 companies on the plaintiff taxicab drivers. *See Dawavendewa v. Salt River Project Agr. Imp.*
and Power Dist., 276 F.3d 1150, 1154–55 (9th Cir. 2002).

22 As a result, this case will be dismissed, unless plaintiffs amend the complaint to add the
23 taxicab companies as defendants and said amended complaint is served along with the summons
24 on defendants **BY JULY 6, 2009** and proof of service is filed by said deadline. A copy of all
25 orders issued in this case including the present order should be served with the amended
26 complaint. If plaintiffs elect not to amend and bring in the necessary parties, then plaintiffs
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1 should so notify the court **BY JUNE 15, 2009**, and then dismissal will be final and the judgment
2 may be appealed.

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4 **IT IS SO ORDERED.**

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6 Dated: June 4, 2009

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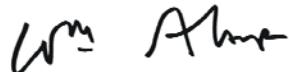
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WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE